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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/791,589

03/02/2004

Glenn Klecker

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07/05/2007

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EXAMINER

HAMILTON, ISAAC N

ART UNIT

PAPER NUMBER

3724

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/791,589

Applicant(s)

KLECKER ET AL.

Examiner

Isaac N. Hamilton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04/02/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-8, 10, 11 and 15-33 is/are pending in the application.
- 4a) Of the above claim(s) 28-33 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-8, 10, 11, 15-19 and 22 is/are allowed.
- 6) ☒ Claim(s) 20, 21 and 23-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Blade

Assembly

Sharpened Cutter

Blade Carrier

Jaw

Base

Blade Pivot Joint

Tang/Main Portion

Leg

2nd Handle Pivot Joint

Abutment Face

Second Handle

First Handle Pivot

First Handle

Diagram illustrating the exploded view of a hand tool assembly, showing various components and their assembly points. The components are labeled with numbers and descriptive text:

- Blade
- Assembly
- Sharpened Cutter
- Blade Carrier
- Jaw
- Base
- Blade Pivot Joint
- Tang/Main Portion
- Leg
- 2nd Handle Pivot Joint
- Abutment Face
- Second Handle
- First Handle Pivot
- First Handle

2. Claims 20, 21 and 23-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berg in view of Eklind (6,151,999). Berg discloses everything as noted above in Diagram 1, and discloses channels 44, 52; side walls 68; base 66, 106. Berg does not disclose cushioning portions of elastomeric material overmolded onto the side walls covering at least part of a respective margin of each of the side walls, and does not disclose a shell layer of a rigid plastics

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material. However, Eklind teaches cushioning portions 46 of elastomeric material overmolded onto the side walls covering at least part of a respective margin of each of the side walls as shown in figures 5 and 8 and recited in columns 2 through 3, lines 53-3, respectively; and teaches shell layer 12 of a rigid plastics material in column 2, line 29. It would have been obvious to provide cushioning portions of elastomeric material overmolded onto the side walls covering at least part of a respective margin of each of the side walls in Berg as taught by Eklind in order to provide a comfortable gripping surface for the hand of the user. Moreover, it would have been obvious to provide a shell layer of a rigid plastics material in order to provide a layer of material between the metal of Berg and the elastomeric material that is compatible with the texture of both materials. Additionally, it would have been obvious to provide any portion of the tool of Berg that a user's hand contacts during use with cushioning portions of elastomeric material as taught by Elkind in order to make the tool more comfortable to use. Note that the base and side walls of Berg are combined with the teachings of Eklind by replacing the elements 50 and 54 in figure 3 of Eklind with the base and side walls of Berg. This configuration of the combination thus provides the shell layer extending along the base and both side walls; the shell layer extends along the elongate margin of the side walls; the cushioning portion extends along the outer margin of the shell layer; and the cushioning portion covers a portion of an outer face of the shell layer and a portion of an outer margin of the shell layer.

Allowable Subject Matter

3. Claims 2-8, 10, 11, 15-19 and 22 are allowed. The claims define a cutting tool subassembly for a folding hand tool that has two handles which fold about pivot points, wherein one handle is attached to a blade assembly. The blade assembly includes a blade carrier having a

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tang and a sharpened cutter, wherein a leg extends laterally from a main portion of the tang and engages against and in contact with an abutment face of the handle when the handle is in an extended position.

Berg (5,745,997) teaches a cutting tool assembly for a folding hand tool that has two handles which fold about pivot point, wherein one handle is attached to a blade assembly. Berg also teaches that the blade assembly includes a blade carrier having a tang and a sharpened cutter, and teaches a leg extending from a main portion of the tang and engaging against and in contact with an abutment face of the handle when the handle is in an extended position. However, Berg does not teach that the main portion of the tang has a leg that extends laterally from the main portion, and therefore it would not have been obvious to combine the references with other prior art teachings in order to meet the claim limitations.

The claims also define a cutting tool for a folding hand tool that has two handles which fold about a pivot point, wherein the jaw defines a cavity that includes a groove extending away from the cavity to hold an end of a spring which extends from the groove to the second handle pivot joint urging the jaw and the blade to pivot apart from each other about the blade pivot joint.

Mizutani et al (2002/0124415A1) teaches a cavity surrounding the blade pivot joint and a hole extending away from the cavity with a spring located within the cavity, wherein the spring has a pair of opposite ends extending from one hole to the other hole. Mizutani does not teach a groove extending away from the cavity and does not teach one end of the spring being held in the groove and extending from the groove to the second handle pivot joint urging the jaw and the blade to pivot apart from each other about the blade pivot joint. It would not have been obvious to combine the references with other prior art teachings in order to meet the claim limitations.

Response to Arguments

4. Applicant's arguments, see pages 11 and 12, filed 04/02/07, with respect to the limitation of "... a groove extending away from [a] cavity a spring located within said cavity, said spring having a pair of opposite ends, a first of said opposite ends extending into said groove and thereby being engaged with said jaw, and the other of said ends extending from said cavity to said second handle pivot joint and thereby being engaged with said tang of said blade ..." have been fully considered and are persuasive. The rejection of claims 10 and 22 have been withdrawn.

With respect to the rejection of claims 20, 21 and 23-27, applicant's arguments filed 04/02/07 have been fully considered but they are not persuasive. Appellant asserts that the teachings of Eklind do not cure the deficiencies of Berg with respect to providing cushioning portions of elastomeric material on the margins of the side walls of the channel. However, it would have been obvious to provide any portion of the tool of Berg that a user's hand contacts during use with cushioning portions of elastomeric material as taught by Elkind in order to make the tool more comfortable to use.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac Hamilton whose telephone number is 571-272-4509. The examiner can normally be reached on Monday through Friday between 8am and 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



/Timothy V. Eley/
Primary Examiner, A.U. 3724

IH
June 25, 2007